

REMARKS

Claims 32-58 are pending in this application. Claims 32, 48, 50, 57 and 58 have been amended and claim 49 has been canceled without prejudice by the present Amendment.

REJECTIONS UNDER 35 U.S.C. § 102/103

Claims 32-35 and 58

Reconsideration is respectfully requested of the rejection of claims 32-35 and 58 under 35 U.S.C. § 102(e) as being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,340,822 (“Brown”). Applicants respectfully submit that claim 32 and the claims dependent thereon and claim 58 are not anticipated nor rendered obvious by Brown.

Claim 32

Applicants respectfully submit that Brown does not disclose the limitations of amended claim 32, especially depositing a sacrificial layer comprising an anode sub-layer and a cathode sub-layer on a surface of the substrate prior to deposition of the microstructure material, as recited in claim 32. For example, Applicants' disclosure states that the sacrificial layer 8 comprises two electrically conductive electrode materials forming a cathode and an anode. See, e.g., Applicants' disclosure, page 15, line 21 – page 16, line 4.

In contrast to the claimed embodiment, Brown fails to disclose a sacrificial layer comprising anode and cathode sub-layers. See Brown, col. 6, lines 19-36.

As such, Applicants respectfully submit that Brown does not anticipate nor render obvious the embodiment as recited in claim 32.

Also, claims 33-35 depend from claim 32, which, for the reasons stated hereinabove, is submitted not to be anticipated by and patentable over the cited reference. For at least those very same reasons, claims 33-35 are also submitted not to be anticipated by and patentable over the cited reference.

Claim 58

Applicants respectfully submit that Brown does not disclose the limitations of amended claim 58, especially depositing a sacrificial layer formed of a different material from the microstructure material on a surface of the substrate prior to deposition of the microstructure material, as recited in claim 58. For example, Applicants' disclosure states that a layer of cantilever material 9 is deposited onto the sacrificial layer 8. See, e.g., Applicants' disclosure, page 16, line 33 – page 17, line 16.

In contrast to the claimed embodiment, as acknowledged by the Examiner, Brown does not disclose a sacrificial layer formed of a different material from the microstructure material. Applicants note that the Examiner states that the sacrificial layer is the bottom portion of layer 30 and that the microstructure material is the top portion of layer 30. See page 3 of the June 1, 2007 Office Action.

As such, Applicants respectfully submit that Brown does not anticipate nor render obvious the embodiment as recited in claim 58.

Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claims 32-35 and 58 under 35 U.S.C. § 102(b), or in the alternative, under 35 U.S.C. § 103(a).

Claims 36-47 and 57

Reconsideration is also respectfully requested of the rejection of claims 36-47

and 57 under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of U.S. Patent Application Pub. No. 2002/0130610 (“Gimzewski”).

Claims 36-47

Applicants respectfully submit that Brown, when taken alone or in combination with Gimzewski, does not expressly or inherently disclose the limitations of claim 32, especially depositing a sacrificial layer comprising an anode sub-layer and a cathode sub-layer on a surface of the substrate prior to deposition of the microstructure material, as recited in claim 32. Further, it would not have been obvious in view of the cited references to develop same.

As stated above, Brown does not disclose or suggest this feature. In addition, Gimzewski appears to be silent regarding the claimed feature of a sacrificial layer comprising an anode sub-layer and a cathode sub-layer.

Therefore, it is respectfully submitted that Brown, when taken alone or in combination with Gimzewski does not disclose or suggest the recited features of claim 32, and that it would not have been obvious to modify Brown in view of Gimzewski to develop same.

As such, Applicants respectfully submit that claim 32 is patentable over Brown in view of Gimzewski.

For at least the reason that claims 36-47 depend from claim 32, claims 36-47 are also submitted to be patentably distinct over the cited references.

Claim 57

Applicants respectfully submit that Brown does not disclose the limitations of amended claim 57, especially depositing a sacrificial layer on a surface of the substrate

prior to deposition of the microstructure material, and immersing the sacrificial layer in an electrolyte after deposition of the microstructure material, as recited in claim 57.

The added limitations to claim 57 are from allowable claim 48. For at least this reason, Applicants respectfully submit that claim 57 is patentable over Brown in view of Gimzewski.

As such, Applicants request that the Examiner withdraw the rejection of claims 36-47 and 57 under 35 U.S.C. §103(a).

Claims 52-55

Reconsideration is also respectfully requested of the rejection of claims 52-55 under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of U.S. Patent No. 5,994,160 ("Niedermann").

Applicants respectfully submit that Brown, when taken alone or in combination with Niedermann, does not expressly or inherently disclose the limitations of claim 32, especially depositing a sacrificial layer comprising an anode sub-layer and a cathode sub-layer on a surface of the substrate prior to deposition of the microstructure material, as recited in claim 32. Further, it would not have been obvious in view of the cited references to develop same.

As stated above, Brown does not disclose or suggest this feature. In addition, Niedermann appears to be silent regarding the claimed feature of a sacrificial layer comprising an anode sub-layer and a cathode sub-layer.

Therefore, it is respectfully submitted that Brown, when taken alone or in combination with Niedermann does not disclose or suggest the recited features of claim 32, and that it would not have been obvious to modify Brown in view of Niedermann to

develop same.

As such, Applicants respectfully submit that claim 32 is patentable over Brown in view of Niedermann.

For at least the reason that claims 52-55 depend from claim 32, claims 52-55 are also submitted to be patentably distinct over the cited references.

As such, Applicants request that the Examiner withdraw the rejection of claims 52-55 under 35 U.S.C. §103(a).

DEPENDENT CLAIMS

Applicants have not independently addressed the rejections of all the dependent claims because Applicants submit that, for at least similar reasons as why the independent claim from which the dependent claims depend is believed to be allowable as discussed, *supra*, the dependent claims are also allowable. Applicants however, reserve the right to address any individual rejections of the dependent claims should such be necessary or appropriate.

ALLOWABLE SUBJECT MATTER

Applicants gratefully acknowledge the Examiner's indication that claims 48-51 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

An early and favorable reconsideration is earnestly solicited. If the Examiner has any further questions or comments, the Examiner may telephone Applicants' Attorney to reach a prompt disposition of this application.

Respectfully submitted,



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